

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FREDERICK GATLIN,

Petitioner,

v.

JAMES TILTON,

Respondent.

No. 07-03696 CW

ORDER FOR  
RESPONDENT TO  
LODGE  
PETITIONER'S  
MEDICAL RECORDS  
WITH THE COURT

On July 16, 2008, the Court issued an Order granting Respondent's motion to dismiss based on untimeliness in which it reviewed the evidence Petitioner submitted and determined that he did not show an extraordinary circumstance meriting equitable tolling. Petitioner timely appealed and, on May 6, 2010, the Ninth Circuit issued an order vacating and remanding for further proceedings. The Ninth Circuit ruled that the medical records Petitioner submitted made a colorable showing that he suffered from a serious mental illness for at least a substantial portion of the five-year period at issue. However, the court noted that, because Petitioner proceeded pro se, the record contains only a limited and sporadic collection of his medical records so that it is difficult to gain a complete understanding of his mental health over the course of his incarceration. The court also noted that Respondent

1 represented at oral argument that it was in possession of the  
2 entirety of Petitioner's prison medical records. Therefore, the  
3 Ninth Circuit ordered that this Court, on remand, examine  
4 Petitioner's medical records to determine the extent of his mental  
5 capacity during the relevant five-year period, and that, if the  
6 records suggest that Petitioner's mental illness affected his  
7 ability to file a habeas petition during the entire relevant  
8 period, an evidentiary hearing would be warranted.

9 Therefore, Respondent is ordered, within ten days from the  
10 date of this Order, to lodge with the Court the entirety of  
11 Petitioner's prison medical records. The Court will review the  
12 records and determine if an evidentiary hearing is warranted.

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15 IT IS SO ORDERED.

16  
17 Dated: June 11, 2010

*Claudia Wilken*

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CLAUDIA WILKEN  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK GATLIN,

Plaintiff,

v.

JAMES TILTON et al,

Defendant.

Case Number: CV07-03696 CW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 11, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Frederick Gatlin P-19908  
California Medical Facility  
P-141-L  
P.O. Box 2000  
Vacaville, CA 95696-2000

Dated: June 11, 2010

Richard W. Wieking, Clerk  
By: Ronnie Hersler, Deputy Clerk

United States District Court  
For the Northern District of California